

## Department of Energy

## § 1040.62

or required by Federal law, for example, Federal financial assistance provided exclusively to serve on-reservation Indians.

[45 FR 40515, June 13, 1980, as amended at 68 FR 51347, Aug. 26, 2003]

### § 1040.14 Covered employment.

(a) *Employment practices.* (1) Whenever a primary objective of the Federal financial assistance to a program to which this subpart applies is to provide employment, a recipient of the assistance may not (directly or through contractual or other arrangements) subject any individual to discrimination on the grounds of race, color, national origin, or sex (when covered by section 16 and section 401) in its employment practices under the program (including recruitment or recruitment advertising, employment, layoff, or termination, upgrading, demotion or transfer, training, participation in upward mobility projects, rates of pay or other forms of compensation, and use of facilities). This prohibition also applies to programs where the primary objective of the Federal financial assistance is:

(i) To assist individuals through employment to meet expenses incident to the commencement or continuation of their education or training;

(ii) To provide work experience which contributes to the education or training of the individuals involved;

(iii) To reduce the unemployment of individuals or to help them through employment to meet subsistence needs; or

(iv) To provide employment to individuals who, because of handicaps, cannot be readily absorbed in the competitive labor market. The requirements applicable to construction under any such program are to be those specified in or under part III of Executive Order 11246, as amended, or any Executive Order which supersedes it.

(2) In regard to Federal financial assistance which does not have provision of employment as a primary objective, the provisions of paragraph (a)(1) of this section apply to the employment practices of the recipient if discrimination on the ground of race, color, national origin, or sex (when covered by section 16 or section 401) in such em-

ployment practices tends to exclude persons from participation in, deny them the benefits of, or subject them to discrimination under the program receiving Federal financial assistance. In any such case, the provisions of paragraph (a)(1) of this section apply to the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

(3) Paragraph (a)(1) also applies to covered employment as defined in § 1040.12(a)(2).

(b) Enforcement of title VI compliance with respect to covered employment practices is not to be superseded by State or local merit systems relating to the employment practices of the same recipient.

[45 FR 40515, June 13, 1980, as amended at 68 FR 51347, Aug. 26, 2003]

## Subpart C [Reserved]

## Subpart D—Nondiscrimination on the Basis of Handicap—Section 504 of the Rehabilitation Act of 1973, as Amended

### GENERAL PROVISIONS

#### § 1040.61 Purpose and application.

(a) The purpose of this subpart is to implement sec. 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

(b) This subpart applies to each recipient or subrecipient of Federal financial assistance from DOE and to each program or activity that receives assistance.

[45 FR 40515, June 13, 1980, as amended at 68 FR 51347, Aug. 26, 2003]

#### § 1040.62 Definitions.

(a) *Executive Order* means Executive Order 11914, titled “Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs” issued on April 28, 1976.

(b) *Section 504* means sec. 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.